IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6740 of 2004
with
CIVIL APPLICATION NO 3750 OF 2006
IN
SPECIAL CIVIL APPLICATION NO 6740 OF 2004.

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAILENDRASINH AMSINH CHAUHAN - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR HASIT H JOSHI for Petitioner(s) : 1,
Mr. LB Dabhi, AGP for Respondent(s) : 1 - 3.
RULE SERVED for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 04/12/2006

ORAL JUDGMENT

1. Pursuant to the filing of Civil Application No. 3750 of 2006 by the petitioner for fixing the matter for final hearing, said civil application was notified before this Court with papers of the main matter. However, with the consent of the learned Advocates for the parties, in the peculiar facts of this case, the main matter was taken up for final hearing today.

2. Heard learned Advocate Mr. H.H. Joshi for the petitioner and Mr. LB Dabhi, learned AGP for the Respondents.

3. As per the facts of the case of the petitioner, Shri Ramsinh N. Chauhan, father of the petitioner was serving as PSI in the Department of the Respondents at Dhrafa Police Station and worked in the department for more than 30 years. Father of petitioner died on 7.12.2000 while in service. At that time, petitioner was aged about 19 years. Date of birth of the petitioner is 20.7.1981. According to the petitioner, after performing the after-death ceremony and after

the petitioner and his mother recovered to some extent from the shock of his father's death, petitioner applied for appointment on compassionate ground vide application dated 21.6.2001 in response to which, the petitioner had received one communication dated 26.7.2001 from the office of the respondent NO. 3 informing him that since his application was incomplete, he should personally visit the office of respondent NO.3 within seven days. Thereafter, office of respondent no.3 requested the Mamlatdar, City, Jamnagar by letter dated 23.8.2001 for providing Pedhinama, certificate regarding movable/immovable assets and certificate of the particulars of source of income of the family of petitioner. It was also inquired by the respondents as to whether the mother of the petitioner has remarried or not and such inquiries were satisfied by the petitioner. Thereafter, according to petitioner, respondent NO. 1 by letter dated 23.8.2001, asked the PSI Police Head Quarters, Jamnagar to obtain the measurement of the chest of the petitioner, his height, weight etc. for processing the application of the petitioner for

compassionate appointment as police constable. Thereafter, petitioner was informed by respondent no.3 vide letter dated 27.12.2002 that his application was forwarded to the Gujarat Gaun Seva Pasandagi Mandal by the Gandhinagar Office. According to thep etitioner, after death of his father, there is nobody to look after his family, therefore, he was expecting that his application for compassionate appointment will be considered positively by the respondents but he was informed vide letter dated 5.5.2003 that as his application was beyond six months limitation, same has to be rejected in view of the letter of the Gaun Seva Pasandagi Mandal dated 1.4.2003 and, therefore, his application was rejected on that ground alone. Therefore, petitiner has filed this petition before this Court.

4. It is submitted by the learned Advocate Mr. Joshi before this Court that the father of the petitioner died on 7.12.2000and petitioner applied for compassionate appointment on 21.6.2001, therefore, there was delay of only fifteen days in filing such an application

beyond the period of six months.

5. Mr. LB Dabhi, learned AGP appearing for the respondents submitted that the respondents will reconsider the matter within some reasonable period in accordance with law as per the policy.

6. I have considered the submissions made by the learned Advocates for the parties. Considering the fact that there is only fifteen days delay in filing such an application for compassionate appointment beyond the period of six months as per policy and also considering the fact that in the family, there is no one else remained to look after the family, who can be considered to be earning member in the family of the petitioner, respondents shall have to consider the application on merits as per the policy of the State Government for compassionate appointment at the relevant time, rather than to consider it on the technical ground, therefore, respondents are required to be directed to reconsider the matter afresh on merits without entering into the delay aspect without being influenced by their earlier decision communicated to the petitioner as per letter

dated 5.5.2003 Annexure-A.

7. Therefore, in view of the peculiar facts of this case, it is directed to the respondent No.2 to reconsider the matter a fresh as per the policy of compassionate appointment dated 10th March, 2000 read with policy dated 7th September, 2002 and pass appropriate reasoned order reasoned order on merits without considering technical stand of delay in filing of such an application by the petitioner and examine case of petitioner for compassionate appointment on merits within two months from the date of receipt of copy of this order without being influenced in any manner whatsoever by their earlier decision dated 5.5.2003 and communicate decision to the petitioner immediately thereafter.

8. Rule is made absolute in terms indicated hereinabove with no order as to costs.

9. In view of the above order passed in the main matter, Civil Application No. 3750 of 2006 shall not survive. Same is, therefore, disposed of as not surviving.

(H.K. Rathod,J.)

Vyas